

Testimony Opposing SB 1105

My name is Melissa L. Olive, Ph.D., BCBA-D. I am a contributing faculty member at Walden University and I am a practicing behavior analyst through Applied Behavioral Strategies, LLC. I am here today not as a representative of Walden University but as a citizen and practicing behavior analyst voicing my opposition to the changes in SB 1105.

A person who performs acts of diagnosis and treatment of alterations in health status in Connecticut is known as an Advanced Practice Registered Nurse (APRN). APRNs must collaborate with a Connecticut licensed physician where collaborate is defined as "a reasonable and appropriate level of consultation and referral, patient coverage in the absence of the APRN, a method to review patient outcomes, and a method of disclosing the relationship to the patient" (CGS § 20-87a(b)).

In Connecticut, an occupational therapy assistant means a person licensed to assist in the practice of occupational therapy, under the supervision of or with the consultation of a licensed occupational therapist, and whose license is in good standing. (CGS § 20-74a(3)).

Connecticut also "allows the use of supervised support personnel to assist licensed speech and language pathologists with tasks that are (A) designed by the licensed speech and language pathologists being assisted, (B) routine, and (C) related to maintenance of assistive and prosthetic devices, recording and charting or implementation of evaluation or intervention plans." (CGS § 20-413(3)). However, those persons must be supervised, whereas supervised is defined as: "(i) not more than three support personnel are assisting one licensed speech and language pathologist, (ii) in-person communication between the licensed speech and language pathologist and support personnel is available at all times, and (iii) the licensed speech and language pathologist provides the support personnel with regularly scheduled direct observation, guidance, direction and conferencing for not less than thirty per cent of client contact time for the support personnel's first ninety workdays and for not less than twenty per cent of client contact time thereafter." (CGS § 20-413(3)).

The aforementioned statutes have been developed and are in place to protect two entities: (a) the practicing professional; and (b) the client receiving services from the practicing professional.

The proposed changes to SB 1105 are detrimental to several parties. First, the children with autism who are set to receive applied behavior analysis services in their IEP would be harmed if said services were provided by personnel who lack appropriate certification and/or supervision. Second, the practicing professional is also now at risk because he/she is being asked to perform duties that are out of his/her scope of practice and without appropriate supervision leading to the act of malpractice. Third, the parents/guardians and other family members of the children receiving said services are at risk because the child is not receiving appropriate services in the school and/or home setting.

Just as Nurse Practitioners, Occupational Therapists, and Speech and Language Pathologists have standards of conduct to practice, so do practicing Behavior Analysts. The Behavior Analyst Certification Board Guidelines for Responsible Conduct describes the duties and work scope of both Board Certified Behavior Analysts and Board Certified Associate Behavior Analysts. I have provided them for you in Appendix A so I will not read them aloud to you. However, I will summarize by stating that one role of the BCBA is to supervise the work of the BCaBA as well as others who implement behavior analytic interventions. The BCaBA is required to work under the supervision of a BCBA. Moreover, the Guidelines state that Governmental entities, third-party insurance plans and others utilizing BCaBAs must require this supervision (emphasis added). Thus, any BCaBA who is employed by a school district in this state must be supervised by a BCBA. It would be unethical for a BCaBA to allow himself or herself to be supervised otherwise.

Additionally, as described in section 8 of the Guidelines, behavior analysts are under an ethical obligation to report the unethical conduct of behavioral and non-behavioral colleagues. Any person practicing behavior analysis without appropriate certifications and/or supervision is doing so in violation of the Guidelines and subject to reporting standards under the Guidelines.

Connecticut currently has 216 BCBAs and BCaBAs. This does not include certificants who will be added based on the January certification exam or the upcoming August exam. According to data from the Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act, Connecticut currently has 5,028 individuals with autism spectrum disorder ages 6-22. While this does not include children ages 3-5, it is also safe to assume that not every child with autism is receiving ABA in his/her IEP. Thus, we currently have approximately 1 behavior analyst to 23 students with autism. This ratio should continue to improve as more people earn certification and as more people move to Connecticut to practice. After all, I was not a resident in this state 2 years ago.

In closing, I ask that you carefully consider the changes to SB 1105 and recognize the harm that may be caused to children with autism spectrum disorders, their families, and the personnel who are charged with implementing the IEP if personnel who implement ABA services are not appropriately certified and/or supervised.

Appendix A

(Retrieved from www.bacb.com)

Board Certified Behavior Analyst® (BCBA®):

The Board Certified Behavior Analyst is an independent practitioner who also may work as an employee or independent contractor for an organization. The BCBA conducts descriptive and systematic (e.g., analogue) behavioral assessments, including functional analyses, and provides behavior analytic interpretations of the results. The BCBA designs and supervises behavior analytic interventions. The BCBA is able to effectively develop and implement appropriate assessment and intervention methods for use in unfamiliar situations and for a range of cases. The BCBA seeks the consultation of more experienced practitioners when necessary. The BCBA teaches others to carry out ethical and effective behavior analytic interventions based on published research and designs and delivers instruction in behavior analysis. **BCBAs supervise the work of Board Certified Assistant Behavior Analysts and others who implement behavior analytic interventions (emphasis added).**

Board Certified Assistant Behavior Analyst® (BCaBA®):

The BCaBA conducts descriptive behavioral assessments and is able to interpret the results and design ethical and effective behavior analytic interventions for clients. The BCaBA designs and oversees interventions in familiar cases (e.g., similar to those encountered during their training) that are consistent with the dimensions of applied behavior analysis. The BCaBA obtains technical direction from a BCBA for unfamiliar situations. The BCaBA is able to teach others to carry out interventions once the BCaBA has demonstrated competency with the procedures involved under the direct supervision of a BCBA. The BCaBA may assist a BCBA with the design and delivery of introductory level instruction in behavior analysis. **It is mandatory that each BCaBA practice under the supervision of a BCBA. Governmental entities, third-party insurance plans and others utilizing BCaBAs must require this supervision (emphasis added).**

1.0 Responsible Conduct of a Behavior Analyst.

The behavior analyst maintains the high standards of professional behavior of the professional organization.

1.02 Competence.

- (a) Behavior analysts provide services, teach, and conduct research only within the boundaries of their competence, based on their education, training, supervised experience, or appropriate professional experience.
- (b) Behavior analysts provide services, teach, or conduct research in new areas or involving new techniques only after first undertaking appropriate study, training, supervision, and/or consultation from persons who are competent in those areas or techniques.

8.0 The Behavior Analyst's Responsibility to Colleagues.

Behavior analysts have an obligation to bring attention to and resolve ethical violations by colleagues.

8.01 Ethical Violations by Behavioral and Non-behavioral Colleagues.

When behavior analysts believe that there may have been an ethical violation by another behavior analyst, or non-behavioral colleague, they attempt to resolve the issue by bringing it to the attention of that individual if an informal resolution appears appropriate and the intervention does not violate any confidentiality rights that may be involved. If resolution is not obtained, and the behavior analyst believes a client's rights are being violated, the behavior analyst may take additional steps as necessary for the protection of the client.